WP(C) 4708/2007
BEFORE
HON'BLE MR. JUSTICE RANJAN GOGOI
.
Heard Mr. R. P. Sarmah, learned counsel for the petitioner and Mr. B. J. Ghosh, learned Govt. Advocate, Assam.
Sri P. K. Bhuyan, Superintendent of Police, Tinsukia, is personally present alon g with the records which have been duly perused.
In view of the subject matter involved and as the records placed before the Cour t have been fully considered, final orders in the writ petition are being passed at the motion stage.
The petitioner, who is a Sub-Inspector of Police (U.B.), assails an order dated 27th of August 2007 by which he has been relieved of the responsibility of the c harge of the Kakopathar Police Station wherein he was earlier the Officer-in-cha rge. An order dated 30/31-8-2007 placing the petitioner under suspension has als o been assailed in the writ petition. It may be noticed at this stage that after the petitioner has been relieved of the charge of the Officer-in-charge of Kako pathar Police Station he has been brought to the Police Reserve at Tinsukia.
The materials on record would go to show that on 25.8.2007 the petitioner record ed an entry in the General Diary of the Kakopathar Police Station to the effect that he is proceeding on medical leave as he was suffering from spondalitis and back pain and that one S.I. B. K. Gogoi will be the in-charge of the Kakopathar Police Station during the absence of the petitioner. According to the petitione r, on 26.8.2007 he informed the Superintendent of Police, Tinsukia that he has b een referred to the Medical College Hospital at Dibrugarh for better treatment. The said letter dated 26.8.2007 was received by the Superintendent of Police, Ti nsukia on 28.8.2007. In the meantime, as the whereabouts of the petitioner was n ot known and in view of the fact that the Police Station in question did not hav e a regular Officer-in-charge, the Superintendent of Police, Tinsukia by the imp ugned order dated 27.8.2007 transferred the petitioner from Kakopathar Police St ation to the Reserve and appointed another S.I. Sri Kandarpa Kumar Baruah as th e Officer-in-charge of Kakopathar Police Station. Thereafter, it appears that on receipt of the letter dated 26.8.2007 on 28.8.2007 and on further intimation th at the whereabouts of the petitioner were not known and he had virtually deserte d the Police Station the impugned order of suspension was passed on 30/31-8-2007 .
The records in original placed before the Court reveals that on the basis of a n ote dated 30.8.2007 put up before the Superintendent of Police, Tinsukia to the effect that the whereabouts of the petitioner were not known orders were passed placing the petitioner under suspension. To justify the aforesaid decision taken reasons, for which are not expressly recorded in the note-sheet, Sri Bhuyan, Su perintendent of Police, Tinsukia, who is personally present has sought to place before the Court certain records seized by him which would go to show that the p etitioner had actually attended the Kakopathar P.H.C. on 28.8.2007 and not on 25 .8.2007 as claimed by him. Sri Bhuyan has also sought to justify the suspension order by contending that the petitioner had behaved irresponsibly and had virtua lly deserted the Police Station which had called for his suspension.
Though the facts asserted by either of the contesting parties are highly dispute d, even assuming the facts stated by the petitioner to be correct, what emerges is that the petitioner had virtually left the Police Station without obtaining a ny leave and by merely intimating the Superintendent of Police that he was unwel l. The medical problem that the petitioner claims to have been suffering from, a s evident from the materials on record, are not sufficiently serious to enable t he Court to take the view that the petitioner was incapacitated to such an exten t that as the Officer-in-charge of the Police Station he could opt to remain abs ent from duties without leave being granted to him and merely on the basis of an intimation to the Superintendent of Police that the petitioner was unwell. To t hat extent the actions of the petitioner should have invited some remedial actio n from the Superintendent of Police. Such remedial action was taken by the Super intendent of Police on 27.8.2007 by relieving him from the Police Station and br

inging him to the Police Reserve. Once the same was done and a substitute was appointed as the Officer-in-charge of the Police Station in question, any further action of the Superintendent of Police on the basis of the conduct of the petitioner in his capacity as the Officer-in-charge of the Kakopathar Police Station does not appear to the Court to be justified. The petitioner having been transferred from the Police Station and brought to the Police Reserve any further action after such transfer, in the considered view of the Court, should have been in the form of a departmental proceeding if at all such a proceeding was to be initiated. Instead, the Superintendent of Police, Tinsukia appears to have persisted in the matter and for actions connected with the post of Officer-in-charge, Kakopathar Police Station from which the petitioner was already relieved on 27.8.2007 the petitioner was placed under suspension on 30/31-8-2007. Viewed from the aforesaid perspective the act of suspension of the petitioner does not appear to the Court to be justified.

The net result of the above discussion is that while the transfer of the petitioner made by order dated 27.8.2007 is maintained the suspension of the petitioner made by order dated 30/31-8-2007 is interfered with. The petitioner will now report to the Police Reserve at Tinsukia and to the Superintendent of Police, Tinsukia, within 48 (forty eight) hours from today and take further orders from the Superintendent of Police with regard to the duties that he has to offer.

This will dispose of the writ petition.